

Superseded 5/12/2015

77-10a-12 Representation of state -- Appointment and compensation of special prosecutor.

- (1) The state may be represented before any grand jury summoned in the state by:
 - (a) the attorney general or any assistant attorney general;
 - (b) a county attorney or any deputy county attorney;
 - (c) a district attorney or any deputy district attorney;
 - (d) a municipal attorney or any deputy municipal attorney; and
 - (e) special prosecutors appointed under this chapter and their assistants.
- (2) The supervising judge shall determine if a special prosecutor is necessary. A special prosecutor may be appointed only upon good cause shown and after the supervising judge makes a written finding that a conflict of interest exists in the Office of the Attorney General, the office of the county attorney, district attorney, or municipal attorney who would otherwise represent the state before the grand jury.
- (3) In selecting a special prosecutor, the supervising judge shall give preference to the attorney general and assistant attorneys general, county attorneys, district attorneys, or municipal attorneys and their deputies.
- (4)
 - (a) The compensation of a special prosecutor appointed under this chapter who is an employee of the Office of the Attorney General, the office of a county attorney, district attorney, or municipal attorney is only the current compensation received in that office.
 - (b) The compensation for an appointed special prosecutor who is not an employee of a prosecutorial office under Subsection (4)(a) shall be comparable to the compensation of a deputy or assistant attorney general having similar experience to that of the special prosecutor.
- (5) The attorney general, county attorney, district attorney, or municipal attorney may elect to have a special prosecutor appointed by the supervising judge at the expense of the governmental entity supporting the electing prosecutor. Upon receipt of written notice from the prosecutor of that election, the supervising judge shall appoint a special prosecutor in accordance with this section. The electing prosecutor's supporting governmental entity shall reimburse the state for expenses incurred in appointment and compensation of the special prosecutor.